

INTRODUCED BY _____

(Primary Sponsor)

SENATE JUDICIARY

Exhibit No. 1

Date 2/3/15

Bill No. S.B. 209

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE USE OF VEHICLE EVENT DATA RECORDERS; CLARIFYING OWNERSHIP OF VEHICLE EVENT DATA AND THE OWNERSHIP OF VEHICLE DATA UPON TRANSFER OF A VEHICLE; AUTHORIZING A COURT TO ORDER PRODUCTION OF VEHICLE DATA WITH A SEARCH WARRANT; AND PROVIDING FOR THE RELEASE OF VEHICLE EVENT DATA IN CERTAIN CASES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions apply:

- (1) "Event data recorder" has the meaning provided in 49 C.F.R 563.5 as in effect on October 1, 2011.
- (2) "Owner" means a person:
 - (a) in whose name a motor vehicle is registered or titled;
 - (b) who leases a motor vehicle for at least 3 months;
 - (c) who is entitled to possession of a motor vehicle as the purchaser under a security agreement; or
 - (d) who is the attorney in fact, conservator, or personal representative for a person described in subsection (2)(a) through (2)(c).

NEW SECTION. **Section 2. Ownership of recorded data.** Except as provided in [section 4], the data on a motor vehicle event data recorder is exclusively owned by the owner of the motor vehicle and may not be retrieved or used by any person other than the owner of the motor vehicle without the written consent of the owner. If a motor vehicle is owned by more than one person, all owners must consent to the retrieval or use of the data from a motor vehicle event data recorder. [comment – this could make it very difficult, confusing, and administratively burdensome to obtain crash data]

NEW SECTION. **Section 3. Effect of vehicle ownership transfer on ownership of data -- prohibited insurer and lessor actions.** (1) Data on a motor vehicle event data recorder does not become the property of a lienholder or insurer solely because the lienholder or insurer succeeds in ownership of a motor vehicle as a result of an accident.

(2) An insurer may not condition the payment or settlement of an owner's claim on the owner's consent to the retrieval or use of the data on a motor vehicle event data recorder.

(3) An insurer or lessor of a motor vehicle may not require an owner to consent to the retrieval or use of the data on a motor vehicle event data recorder as a condition of providing the policy or lease.

NEW SECTION. Section 4. Retrieval or use of data -- exceptions. (1) Data from a motor vehicle event data recorder may be retrieved or used without the consent of the owner:

(a) if a court orders the production of the data pursuant to a valid search warrant; or

(b) to facilitate or determine the need for emergency medical care for the driver or passenger of a motor vehicle that is involved in a motor vehicle crash or other emergency, including the retrieval of data from a company that provides subscription services to the owner of a motor vehicle for in-vehicle safety and security communications systems.

Comment - In addition to (a) and (b), these exceptions should also be included:

(c) For the purpose of improving motor vehicle safety, security or traffic management, including for medical research of the human body's reaction to motor vehicle crashes, and provided that the identity of the owner or driver is not disclosed in connection with that retrieved data. For the purposes of this subsection, the disclosure of the vehicle identification number (VIN) with the last six digits deleted does not constitute the disclosure of the identity of the owner or driver.

(d) The data is retrieved by a licensed new motor vehicle dealer, or by an automotive technician for the purpose of diagnosing, servicing or repairing the motor vehicle.

(2) [Sections 1 through 4] do not apply to data that is stored or transmitted pursuant to a subscription service agreement for the use of a recording device to record a history of where a motor vehicle travels or for the transmission of data to a central communications system.

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 61, and the provisions of Title 61 apply to [sections 1 through 4].